

REMARKS

Attorney for applicant calls to the attention of the Examiner the co-pending application of the present inventor, serial number 09/598,890 filed June 22, 2000, entitled "Supply Element for a Laboratory Microchip", as well as the co-pending application of the present inventor and two other individuals, namely Patrick Kaltenbach, and Colin Kennedy, Serial Number 09/595,420, entitled "Apparatus for the Operation of a Microfluidic Device," filed June 15, 2000.

The foregoing applications are based on German applications filed June 22, 1999 and published subsequent to the filing of the present application. The U.S. application in which the present inventor is the sole inventor is owned by the assignee of the present application, Agilent Technologies Inc. The joint U.S. application is jointly owned by the assignee of the present application and Caliper Technologies Corp. The two foregoing U.S. applications claim priority from German applications filed on June 22, 1999. The foregoing U.S. applications disclose a supply element with seals and a bayonet lock. The independent claims of neither of the foregoing applications require the supply element to include a seal. Applicant is in the process of obtaining a certified translation of the German application relied on for priority, to overcome any possible rejection that might be made in the present case, *vis a vis* the jointly filed U.S. application. Under the provisions of 35 USC 103(c), the sole, previously mentioned application is not applicable to the claims of the present application. The indication of claims 28 and 43, directed to the bayonet lock feature, containing allowable subject matter, is noted. Presumably these claims will remain allowable, upon submission of the certified translation.

To this end, claims 28 and 43 have been combined with the claims upon which they depend. This combination of claims is made without amendments being made to the independent claims submitted with the present amendment except to cure the objection to the specification raised in the last office action and the rejection under 35 USC 112, ¶ 2. The independent and dependent claims are amended to define applicant's contribution to the art with greater particularity and to avoid the rejection under 35 USC 112, ¶ 2.

In amending the claims, the applicant is no longer using the terminology "first, second, third and fourth." In consequence, no amendment to the specification is necessary. As a result, applicant believes it is not necessary to indicate what the claimed elements are *vis a vis* the drawing and the specification.

Claims 17-25, 27, 30 and 31, as previously submitted, were not anticipated Lebel et al. (US 6,045,755). Lebel et al. does not disclose a supply element for a laboratory microchip with a microfluid structure, wherein a seal is opened to the microchip in response to the supply element and the microchip being joined together, as previously defined by claim 17, upon which claims 18-25, 27, 30 and 31 depend. However, to emphasize the distinction between the present invention and Lebel et al. more particularly, claim 17 now requires the substance supplier to have a size, position, material and shape for causing the seal thereof to be opened to the microchip in response to the supply element and the microchip being joined together and for causing the substance to be transferred from the substance supplier to a substance supplier disposed within the microchip. The substance supplier within the supply element is also required to differ from the substance supplier in the microchip.

Lebel et al. is not germane to the structure of claim 17 because Lebel et al. does not disclose a supplier for a microchip and does include the foregoing limitations. Based on the foregoing, the anticipation rejection based on Lebel should be withdrawn.

Applicant has added claims 56 and 58-62 and replaced claim 32 with claim 57. Claims 56 and 58-62 depend, either directly or indirectly on claim 17, and are allowable with them. In addition, these claims define the combination of the supply unit and the microchip. Claim 57, as well as all other extant claims, define a sealed source with a substance, wherein the seal is effectively broken in response to joining of the substance supplier and the microchip.

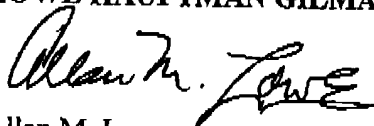
Applicant traverses the rejection of claims 17-21, 23-27, 29-42 and 44-55 as being anticipated by Chow (US 6,071,478). The office action includes copious quotes from the Chow reference. However, the office action fails to indicate where Chow includes a seal, as defined by each of the claims rejected as being anticipated by Chow. Consequently, the rejection based on Chow is incorrect and must be withdrawn.

In view of the foregoing amendments and remarks, favorable reconsideration and allowance are respectfully requested and deemed in order.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

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